

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 580 Department or Agency Mental Health
Rule No. Chapter 580-5-31
Rule Title: Program Administrative Standards
New X Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? NO

Is there another, less-restrictive method of regulation available that could adequately protect the public? NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NO

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

Does the proposed rule have an economic impact? NO

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Debbie S. Powell

Date 10/19/11

REC'D & FILED

OCT 19 2011

LEGISLATIVE REFERENCE SERVICE

Alabama Department of Mental Health

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Mental Health

RULE NO. & TITLE: Chapter 580-5-31 Program Administrative Standards

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

This rule is the new program administrative requirements for all Intellectual Disability programs.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

All interested persons may submit data, views, or arguments in writing to Debbie Popwell, Director, Office of Certification, Alabama Department of Mental Health/ Mental Retardation, 100 North Union Street, Montgomery, Alabama 36130 by mail or in person between the hours of 8:00AM and 5:00PM, Monday through Friday, or by electronic means to debbie.popwell@mh.alabama.gov until and including Dec 5, 2011. Persons wishing to submit data, views, or arguments orally should contact Ms. Popwell by telephone at (334) 353-2069 during this period to arrange for an appointment.

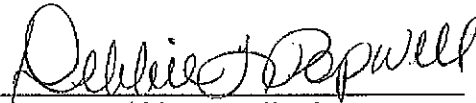
FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Dec. 5, 2011

CONTACT PERSON AT AGENCY:

Persons wishing a copy of the proposal may contact
Debbie Popwell
Department of Mental Health/Mental Retardation
100 North Union Street
Montgomery, Alabama 36130
(334) 353-2069

A copy of the proposed change is available on the department's website at <http://mh.alabama.gov>
Click on Commissioner's Office and then Certification Administrative to find code with changes.



Debbie Popwell, Director
Office of Certification

ALABAMA DEPARTMENT OF MENTAL HEALTH
AND MENTAL RETARDATION

DIVISION OF DEVELOPMENTAL DISABILITIES ~~MENTAL RETARDATION~~
ADMINISTRATIVE CODE

CHAPTER 580-5-31
PROGRAM ADMINISTRATIVE STANDARDS

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580-5-31-.01 Adoption by Reference. Regulations in this Chapter supplement regulations in Chapter 580-3-24 to meet requirements of state or federal law and/or the funding source for the provision of services and supports to individuals with intellectual disabilities ~~mental retardation~~.

Author: Division of ~~Mental Retardation~~ Developmental Disabilities, (DMH/MR)

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: Repealed and New Rule: Filed February 4, 2005; effective March 11, 2005. Amended: Filed October 19, 2011;

580-5-31-.02 Policies and Procedures.

(1) The agency has policies and procedures in a manual form that are approved by the governing body at least annually.

(2) There is evidence that the policies and procedures required by the Alabama Administrative Code are followed by agency personnel.

(3) The provider shall implement written policies and procedures approved by the Board of Directors that prohibit creation after the fact, alteration, or falsification of original administrative or clinical documentation in order to make it appear that the documentation is original, factual, or occurred at some time other than it actually did to give the appearance of on-going compliance with these standards or other applicable regulations.

(4) The policy and procedure manual shall be available to all employees at each site.

(5) Policies and procedures must be available which address, at the very least, the following:

(a) All employees/volunteers/agents of the provider will have reference and background checks prior to employment. Policy and practice should include the following:

1. A description of the manner in which references and background checks and drug screening will be conducted and documented prior to employment/ engagement of all employees who directly provide supports to people.

2. Background checks must cover the employer's local vicinity, as well as statewide, and national checks are completed if applicable. Resources to assist in this process will include the Department of Public Safety, the Department of Public Health's Abuse Registry, the Department of Human Resources' Abuse Registry, as well as DMH/~~IDMR~~'s Term-Trac database.

3. Urine drug testing is included as part of the employment screening process.

(b) No prospective employee will be hired who has been convicted of assaulting any person.

(c) The implementation of the Division of Developmental Disabilities ~~Mental Retardation's~~ Community Incident Prevention and Management System (IPMS).

1. Investigations follow minimum protocols as specified in DMH/MR Community IPMS guidelines.

2. There is documentation that the agency conducts investigations in accordance with timelines established by the IPMS-Community guidelines.

3. There is documentation of the procedure for the reporting of incidents and injuries that is in accordance with all applicable laws and DMH/MR requirements, including the IDMR's Community Incident Prevention and Management Plan.

4. There is documentation for the internal investigation/review and follow up action of all allegations of abuse/neglect, allegations of mistreatment or exploitation, alleged violations of the rights of persons served, and suspicious deaths must be included.

5. Investigation outcomes and recommended actions are implemented by the agency in accordance with the IPMS-Community guidelines.

(d) A comprehensive mortality review is completed and available, as applicable.

(e) Assurance of safety and sanitation.

(f) Protection of the financial interests of each person served.

(g) Affirmation and protection of each person's welfare, including their civil and legal rights as citizens of Alabama as guaranteed by State Laws, Federal Laws, and the U.S. Constitution. There must be written policies and procedures that protect each person's welfare, the manner in which the person is informed of these rights and protections, and the means by which these protections will be enforced.

1. Each person is informed of his/her rights and responsibilities and procedures describe how the entity will comply with this policy.
2. Procedures for the initiation, review, and resolution of complaints and grievances.
3. Due process when it is proposed that a person's rights be restricted for any reason, including review by a Human Rights Committee.
4. The provision of services in a safe and humane environment.
5. Privacy, including the conducting of a search.
6. Confidentiality of all personal information.
7. Access to all information in his/her records.
8. Disclosure of services provided, any applicable charges for services and any limitation placed on the duration of the services.
9. Written informed consent prior to participation in any research or experimentation, including information presented in a non-threatening environment, in language and format appropriate to the person's ability to understand.
10. Freedom from physical, verbal, sexual, or psychological abuse, exploitation, coercion, reprisal, intimidation, or neglect. Policy prohibits and defines the aforementioned.
11. Access to and privacy of mail, telephone communications, and visitors.
12. Free exercise of religion.
13. Treatment which emphasizes dignity and respect for persons served on an individual basis.
14. Freedom to exercise rights without fear of reprisal.
15. Physical and chemical restraints used only in accordance with established standards of medical, social, and educational care, taking into consideration the health status of the person involved.

16. Adequate food and shelter when receiving residential supports.

17. Access to dental and medical care, including vision and hearing services.

18. Access to services in their community and local neighborhood and inclusion in the community with appropriate and adequate supports.

19. Participation in the political process in the United States and the State of Alabama, including the right to vote if over the age of 18.

20. Enforcement of rights in a court of competent jurisdiction or appropriate administrative proceeding.

21. Presumption of competence until a court of competent jurisdiction determines otherwise.

(h) Criteria for admission and discharge.

(i) Description of services offered, individualization of services, and types of supports provided to enhance each person's ability to function in society as independently as possible.

(j) The administration of medication, to include the handling of medication errors.

(k) Medical treatment and emergency medical services.

(l) Recruitment, training, and use of volunteers.

Author ~~Division of Mental Retardation-Developmental Disabilities~~, (DMH/MR)

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: **Repealed and New Rule:** Filed February 4, 2005; effective March 11, 2005. Amended: Filed October 19, 2011;

580-5-31-.03 Personnel Qualifications. Employees who directly provide supports to people possess the education and licensing credentials required by the applicable funding source and state law.

(1) Case managers must complete a case management training program approved by DMH/DDD/MR and the Alabama Medicaid Agency.

(2) Students (unpaid workers) who are completing a degree in psychology, counseling, social work, or psychiatric nursing may be used for direct services under the following conditions:

(a) The student is in a clinical practicum that is part of an officially sanctioned academic curriculum.

(b) The student receives a minimum of one hour per week direct clinical supervision from a licensed/certified mental health professional having at least 2 years post master's experience in a direct service functional area.

(c) The student's clinical notes are co-signed by the student's supervisor described above.

Author: ~~Division of Mental Retardation-Developmental Disabilities~~, (DMH/MR)

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: **Repealed and New Rule:** Filed February 4, 2005; effective March 10, 2005. **Amended:** Filed October 19, 2011;

580-5-31-.04 Employee Training and Training Records.

(1) Employee Orientation. Agencies shall assure orientation/training for each employee. Documentation of all employees training is maintained by the agency on site. Training in specific topics must be completed and documented prior to a new employee's unsupervised contact with consumers.

a) Prior to assuming their assigned position, every direct contact employee receives training in at least the following areas: rights of people served, to include the recipient complaint/grievance procedure; abuse, neglect, mistreatment, and exploitation policy and procedures; overview of mental retardation; infection control/universal precautions; severe weather preparedness; and fire safety. Medication assistance training is provided as applicable, and must be provided by a licensed practical or registered nurse and in compliance with the Nurse Practice Act and Administrative Code.

(b) Prior to working alone and within at least 90 days of employment, all employees who directly provide supports to people receive training in at least the following areas: CPR; first aid; medical emergencies; management of aggressive behavior, medication training; signs and symptoms of illness; incident identification/

reporting, and other training specific to the characteristics of persons served (including but not limited to: seizure management, physical management techniques related to feeding and positioning, habilitation training programs, and behavior support programs) as applicable.

(c) Within ninety (90) days of employment, all employees who directly provide supports to people receive training in the following areas: Agency policy and procedures, philosophy of self-determination, and person-centered supports and general behavioral principles emphasizing skill acquisition and behavior reduction techniques.

(2) Annual Training/Retraining. Annually, all employees receive refresher training in the following areas: Rights of people served, to include the recipient complaint/grievance procedure; abuse, neglect, and mistreatment and exploitation policy and procedures; and infection control/universal precautions. Additionally, all employees who directly provide supports to people receive refresher training annually regarding management of aggressive behavior and side effects of medication.

(a) The agency ensures that all employees who directly provide supports to people maintain current certification in CPR and First Aid.

(b) New staff who have direct contact (staff who provide direct hands-on services) with individuals served shall have a TB skin test with documented results, unless there is written evidence that such testing has previously been done or there is a medical contraindication for the procedure.

1. A one-step TB test will be conducted annually on each employee who has direct contact with individuals served.

2. The agency must prohibit employees with symptoms or signs of a communicable disease from direct contact with clients and their food.

Author: Division of Mental-Retardation-Developmental Disabilities, (DMH/MR)

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: Repealed and New Rule: Filed February 4, 2005; effective March 10, 2005. Amended: Filed March 27, 2007; effective May 1, 2007. Amended: Filed October 19, 2011;

580-5-31-.05 Staffing Assignments/Ratios.

(1) Agencies shall ensure that staffing ratios meet the needs of persons served, as identified by their Support Team.

(2) Agencies shall ensure staff assignments and accountability are clearly documented.

Author: Division of ~~Mental Retardation~~ Developmental Disabilities, (DMH/MR)

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-31-.06 Quality Enhancement.

(1) The Quality Enhancement Plan has been approved by the agency's board of directors and is available for review by designated DMR staff. There is evidence that the Regional Quality Enhancement (QE) staff review the QE plan, or attend the QE meeting during development.

(2) The Quality Enhancement Plan includes mechanisms for:

(a) Problem identification/opportunity for improvement (Indicators).

(b) Assessment/analysis of identified performance problems.

(c) Documentation of problem resolution/improvements.

(d) A follow-up assessment to evaluate corrective action.

(e) Specification of frequency of monitoring for each indicator and the period of time that monitoring will continue after goal attainment is achieved.

(3) The agency implements the Quality Enhancement Plan as written, including corrective action, improvement, and follow-up strategies based on analysis of data/information obtained through the quality enhancement process.

(4) Records and data are available that document quality enhancement activities.

(5) There is evidence that actions were taken, as appropriate, based on data obtained from quality enhancement monitoring and evaluation activities.

(6) Consumer Satisfaction Surveys. The agency utilizes consumer satisfaction surveys as a component of the Quality Enhancement Plan.

(a) Consumer satisfaction survey indicators are identified based on consumer's needs and expressed desires or concerns.

(b) Actions are taken as a result of completed consumer satisfaction surveys submitted to the agency.

(7) Incident/Injury Data. The agency utilizes incident/injury data and information as a component of the Quality Enhancement Plan to prevent the probability of future incidents and to ensure consumer safety.

(a) Incidents are documented and reported, minimally, in accordance with the Division's Community Incident Prevention and Management Plan.

(b) Analyses of individual incidents and aggregate incident data lead to actions to correct problems, actions to prevent future incidents, and actions to improve both specific and systemic issues for the overall improvements in services.

(8) Utilization Review. The agency employs a Utilization review process as a component of the Quality Enhancement Plan.

(a) Each person's eligibility for services/supports is reviewed/re-determined annually by designated DMH/IDMR staff in accordance with established eligibility criteria and DMH/MR Policy, per Alabama Medicaid Agency regulations.

(b) The Case Manager's quarterly review, as applicable, of the support plan confirms whether the appropriate level of care and supports are actually being provided to the person.

(c) The entity follows established procedures for referring people to other entities and/or other generic community or state agencies when there are changes in the needs of the person's residential or other services.

Author: ~~Division of Mental Retardation-Developmental Disabilities~~, (DMH/MR)

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-31-.07 Incident Prevention and Management.

All certified agencies are required to implement a Community Incident Prevention and Management Plan (IPMS) as required by the Department of Mental Health and Mental Retardation, Division of Developmental Disabilities ~~Mental Retardation~~, to protect individuals served from harm and to improve the agency's responsiveness to incidents for the purposes of prevention of harm and risk management.

(1) Each certified agency must notify DDDMR of all reportable incidents and take actions in accordance with the Community IPMS requirements, which include state law and funding source requirements.

(2) Each certified agency shall make changes/enhancements in the agency's QE Plan as required by DMH/DDDMR to incorporate innovative strategies for the prevention and management of incidents, to address incident trends, and to update requirements of state law.

Author: ~~Division of Mental Retardation-Developmental Disabilities~~, (DMH/MR)

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: New Rule: Filed February 4, 2005; effective March 11, 2005. Amended: Filed October 19, 2011;

580-5-31-.08 Client Funds.

(1) The agency shall assure that policies outline under what conditions staff will be responsible for the money of the people it serves.

(2) The agency shall assure that appropriate consents are obtained for the agency's management of an individual's personal funds.

(3) The agency shall assure a full and complete accounting of the personal funds for the people that it serves. At least a quarterly report shall be made to the client or their guardian of revenues, expenditures, and the balance of the account(s).

(4) The agency shall require that an individual fiscal assessment be made before any limitation is placed on a person managing his/her personal funds. The following must be addressed:

(a) Procedures for persons to gain access to their personal funds when the agency is the representative payee or otherwise the custodian of the person's personal funds.

(b) Any limitations on the manner and frequency in which funds can be accessed.

(c) Any limitations on the amount of funds that can be kept in the person's personal possession.

(d) Requirements for the agency on the management, accounting, and reporting of personal funds.

(e) Requirements for obtaining the consent of the person or guardian for the entity to manage personal funds when the entity is not the representative payee, and

(f) Regular accounting to the person served and/or their legal guardian of all expenditures and credits.

(5) The record of persons who have a limitation placed on their ability to personally manage their funds shall document:

(a) That there was an assessment of the person's ability to manage their funds.

(b) The limitation was discussed with the person or their legal guardian.

(c) Any limitation is addressed in the persons' service plan identifying supports targeted to remove the limitation and enhance the persons' ability to be independent.

(d) The limitation is periodically reviewed and evaluated regarding its continued appropriateness by the individual's support team.

Author: ~~Division of Mental Retardation-Developmental Disabilities~~, (DMH/MR)

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-31-.09 Individual Service Records. The agency shall maintain an individual record for each person served.

(1) Records include, but are not limited to: eligibility documentation, needs assessment, personalized program service plan, documentation of plan implementation and revisions, medical/health information, behavior support plans, other assessment information, and consents.

(2) Documentation and corrections in the individual's record comply with agency policy and legal requirements, and are signed and dated by the person completing it.

Author: ~~Division of Mental Retardation-Developmental Disabilities~~, (DMH/MR)

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-31-.10 Safety and Sanitation.

(1) Agency assures safety is maintained and sanitation is adequate, meeting minimum standards for physical facilities, to keep individuals and employees safe.

(2) The agency must provide instructions for and practice the use of universal precautions as specified by the U.S. Department of Public Health Centers for Disease Control and Prevention.

(3) The agency must be prepared to respond to natural disasters.

(4) The agency assures that the building temperature is comfortable for persons served, according to weather conditions.

(5) The agency must be prepared to respond to extraordinary incidents such as workplace violence.

Author: ~~Division of Mental Retardation-Developmental Disabilities~~, (DMH/MR)

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-31-.11 Human Rights Committee. (Repealed)

Author: ~~Division of Mental Retardation-Developmental Disabilities, (DMH/MR)~~

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: Filed February 4, 2005; effective March 10, 2005.

Repealed: Filed March 27, 2007; effective May 1, 2007.

580-5-31-.12 Behavior Program Review Committee.

(1) Agencies shall access a Behavior Program Review Committee (BPRC) to serve in an advisory capacity to the agency's program director on best practices in the area of behavioral supports. Certified programs are responsible for accessing the BPRC for issues with individuals who exhibit challenging behaviors in which a Behavior Support Plan (BSP) with restrictive procedures is proposed in an attempt to modify those behaviors. The BPRC reviews and approves all such programs prior to implementation (except in the event of an emergency situation in which the individual would harm self or others if the procedure was not immediately implemented. In this event, approval is immediately obtained afterwards from the designated agency professional).

(2) An agency may choose to develop its own BPRC. If so, the committee shall be appointed and serve at the pleasure of the agency's Director or designee and be comprised of at least one or more members who have expertise in the area of behavior analysis, and the majority of members have expertise in psychological principles of learning and program development and implementation. Members shall be a combination of program and non-program professional.

(3) The BPRC membership operations and activities are guided through policies and procedures established by the agency and approved by the Director or designee.

(a) Policies and procedures indicate the representation of the committee and terms of service.

(b) Policies and procedures indicate operational procedures to include minimally the following:

- (i) frequency of meetings (at least quarterly)
- (ii) frequency of review of individual's behavior support programs (e.g. at least annually and

more often when the individual's behavior does not show progress)

(iii) obtaining and maintaining signed confidentiality statements from members preventing disclosure of any matters of committee business.

(c) Policies and procedures indicate the activities for which the committee is responsible to include minimally the following:

(i) reviewing and making recommendations for behavioral programs that provide quality treatment to individuals;

(ii) advising the Director or designee on the use of restrictive procedures within behavior support plans, to include the use of psychotropic medication(s);

(iii) reviewing and making recommendations for behavioral contingencies approved to be utilized by the program;

(iv) reviewing the consumer's Individual Program Plan (IPP) to ensure it contains objectives to replace maladaptive or otherwise socially undesirable behaviors.

(4) There is evidence/documentation of the outcome of each meeting of the agency's own or accessed Behavior Program Review Committee.

(5) There is evidence that the agency implements recommendations provided by the Behavior Program Review Committee as applicable.

Author: Division of Mental Retardation-Developmental Disabilities, (DMH/MR)

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: New Rule: Filed February 4, 2005; effective March 11, 2005.

580-5-31-.13 Program Enrollment/Participation in Medicaid Waiver Programs. Agencies/providers that participate in the Medicaid Waiver programs for financial compensation must be enrolled as a provider of services to persons with mental retardation, must be certified by the Department of Mental Health and Mental Retardation (DMH/MR), and must be under contract or sub-contract with the DMH/MR. Certification does not guarantee a contract will be approved by DMH/MR. Monitoring of waiver services by

~~DMH/MR is required to meet federal requirements and to protect the Medicaid funding source. This monitoring is conducted by DMH/MR in accordance with DMH/MR regulations. Agency/Provider Enrollment in the Medicaid Home and Community Based Waiver Program for Persons with Mental Retardation (MR Waiver Program) and/or the Medicaid Home and Community Based Living at Home Waiver (LAH Waiver Program) requires the following:~~

~~———— (1) The agency/provider must be certified by DMH/MR.~~

~~———— (2) The agency/provider must contract with DMH/MR or subcontract with a DMH/MR contractor.~~

~~———— (3) The agency/provider must provide to DMH/MR the services it proposes to provide and numbers of individuals it proposes to serve, if DMH/MR approves a contract with the agency/ provider. The DMH/MR fee-for-service reimbursement system requires each agency/provider to comply with the established reimbursement rates for each specific service/support delivered to consumers.~~

~~———— (4) Each contracting provider agency shall acquire a National Provider Indicator (NPI) as required by HIPAA. The Department will register the provider agency's NPI with the Medicaid Fiscal Agent, which will issue a performing provider number for each program in which the provider agency becomes enrolled. Each agency/provider will be assigned a license to access DMH/MR's electronic billing and payment system known as MRSIS. This access will allow the license holder to bill the DMH/MR, which will then approve, deny or suspend the claim prior to submitting it to EDS or paying it directly.~~

~~———— (5) Individuals enrolled in either of the Waiver programs also receive case management from a qualified case management agency. The case manager serves as an advocate and additional resource for the individual consumer.~~

~~———— (6) All individuals, along with their family or guardian, served under either of the two the Waivers must be given free choice as to who is going to provide each waiver service.~~

~~———— (7) Each consumer in either of the two waivers must have a plan of care which specifies the services and the number of units of service which he or she is expected to receive.~~

Author: ~~Division of Mental Retardation, DMH/MR~~

~~**Statutory Authority:** Code of Alabama 1975, §22-50-11.
History: New Rule: Filed February 4, 2005; effective March 11, 2005. **Amended:** Filed March 27, 2007; effective May 1, 2007. **Amended:** Filed May 14, 2009; effective June 18, 2009. **Repealed:** October 19, 2011.~~

~~**580-5-31-.14 Consumer Eligibility and Level of Care Determinations for Medicaid Waiver Programs.** The Alabama Medicaid Agency designates the DMH/MR as the entity authorized to determine individuals' eligibility for participation in the Medicaid Home and Community-based (HCBS) Waiver for persons with mental retardation (MR Waiver) or for the Alabama Living at Home Waiver (LAH Waiver). Information for eligibility determinations of individuals with mental retardation for enrollment and continued participation in either of these two programs must be submitted by the designated case management agency to the designated DMH/MR Regional Community Services office.~~

~~(1) Definitions:~~

~~—— (a) ICAP (Inventory for Client and Agency Planning) — The standard functional assessment instrument for determining eligibility for the waiver programs. This commercial product will produce a three page summary report known as the Compuscore.~~

~~—— (b) Level of Care Evaluation (LOC) — The form required by the Waiver Programs to document the applicant would otherwise be eligible for and require the level of care provided in, an ICF/MR facility.~~

~~—— (c) Designated Case Management Agency — The agency designated by DMH/MR in each county or group of counties responsible for submitting applications and information regarding individuals waiting for services.~~

~~—— (d) Criticality Summary — The assessment tool created by the Department to evaluate the criticality of a person's need for services. The assessment is to be conducted by case managers with the Designated Case management Agencies, then submitted to the Department for scoring.~~

~~—— (e) Eligibility Worksheet — A form created by the Department to use data from the ICAP Compuscore report to determine level of care, a critical element of determining eligibility for the Waiver programs.~~

~~(2) The Department of Mental Health and Mental Retardation maintains a statewide waiting list of persons applying for services through either of the Medicaid waiver programs administered by the Department under delegation of authority from the Alabama Medicaid Agency. Application to be placed on the waiting list requires much the same information as does an application to be enrolled in the waiver. This is necessary because the Department cannot add a person to the waiting list if there is any indication that that person, once enrollment in a waiver program becomes available, would not be eligible. Therefore, the Department tries to insure, with information available in the application, that only individuals who are or may become eligible for the waiver are added to the list. To the extent possible, information submitted to qualify an applicant for the waiting list is not required to be resubmitted when the person is reached on the waiting list and the waiver application needs to be submitted. The following process and information is required in order to be placed on the waiting list:~~

~~——(a) Applicants contact the designated case management agency in their county.~~

~~(b) The case managers/intake coordinators administer an ICAP and a Criticality Summary, and gather or prepare additional information needed to document the person's eligibility for the waiver program (listed below).~~

~~(c) The case management agency submits the following information to the Regional Office, which will review the packet and if approved, will enter the person on the waiting list. If the information is submitted through the MRSIS system, many items do not have to be submitted by hardecopy unless the Regional Office requests a copy. If the Regional Office requests a hardecopy, it shall be submitted.~~

~~1. A psychological evaluation -- administered after the 18th birthday for an adult; within 3 years of application for a child less than 3 years of age. The most recent school-administered psychological evaluation may be used to meet this requirement for a child;~~

~~2. A developmental summary, to assist in determining eligibility, including assuring the onset of~~

~~mental retardation before the age of 18, completed within 90 days prior to the application;~~

~~3. The ICAP (Inventory for Client and Agency Planning) Compuscore (computerized) report, completed within 90 days prior to the application to be added to the waiting list;~~

~~4. An eligibility worksheet, summarizing key information from the ICAP compuscore, from which the regional office can determine the person's level of care. This document is not required if the application is submitted electronically because the same information is captured in the electronic application; and~~

~~5. A criticality summary completed within 90 days prior to the application. This document shall be submitted electronically.~~

~~(d) The date of application is the day a complete packet is received at the Regional Office.~~

~~(e) All eligible applicants for the waiver programs shall be added to the statewide waiting list.~~

~~(f) Children to age 14 must have an imminent need (within one year) for at least one service under the waivers, to be added to the waiting list. Applicants age 14 and above can be added to the waiting list without an imminent need, under the category of long term planning.~~

~~(g) The waiting list is sorted by criticality summary score and by length of time waiting, and a rank is established for each person waiting, with number one being the rank with the most need.~~

~~(h) Rank shall be reestablished once whenever a criticality summary is added or changed to accommodate new applicants and persons with changing conditions, as determined by criticality scores.~~

~~(i) New state funding for the waiting list will be allocated to the highest priority needs, statewide.~~

~~(j) Funded vacancies which occur shall be filled with the people with the highest priority needs in the county or adjacent counties.~~

~~(k) Local funding for the waiting list shall conform to the waiting list process in similar fashion to funded vacancies.~~

~~(3) When a person from the waiting list can be admitted to either of the two Waiver Programs, all forms required by the Alabama Medicaid Agency must be completed accurately and in a timely manner by the case management agency. Otherwise, they will be returned to the submitting 310 Agency for correction and resubmission.~~

~~(4) For each individual who has requested waiver services, and whose turn it is to be admitted to one of the waiver programs from the waiting list, the designated case management agency shall submit to the Regional Community Services office the following:~~

~~(a) Eligibility Packet - The designated case management agency submits an eligibility packet to the designated Regional Community Service Office in the timeframe specified by DMH/MR including the forms listed below, each of which shall be completed by persons with the credentials specified in the form, and each of which must have original signatures, if so required. In addition to completing an on-line (DMH/MR MRSIS) application and eligibility worksheet, the following forms are required to be submitted:~~

~~1. The eligibility worksheet, which provides information needed to complete and ICF/MR Level of Care Evaluation. This document is not required if the application is submitted electronically.~~

~~2. A Summary of Habilitation form. Not the form may also be submitted electronically.~~

~~3. A documentation, signed by the consumer or family, substantiating the consumer's free choice of providers in the county of service. This form may be scanned into a computer and attached to the consumer's MRSIS record as a note.~~

~~4. A "Dissatisfaction of Service" form (Notification of due process rights), which can be signed, then scanned into a computer and attached to the consumer's MRSIS record as a note.~~

~~5. The Plan of Care, which can be signed, the scanned into a computer and attached to the consumer's MRSIS record as a note.~~

~~c) Initial Eligibility Determinations — The following required diagnostic and evaluation reports or summaries must be submitted in addition to the completed eligibility packet, unless they were previously submitted to qualify the individual for the waiting list, as noted in the paragraphs below. In this case, include a cover sheet with appropriate notations and updates.~~

~~1. A psychological assessment, administered on or after the 18th birthday for adults, and within three years of application for children below age 18 years. A copy of the psychological assessment must be submitted if requested by the Regional Community Service Office, verifying by signature that it was administered and interpreted by a qualified professional. It must reflect a score or conclusion that the individual is within the IQ range defined for a person with mental retardation, and it must contain or be accompanied by evidence that the person's mental retardation occurred before age 18. If a psychological administered after the 18th birthday has previously been submitted for waiting list qualification, do not resubmit the report unless asked to do so. If the applicant is currently less than 18 years of age, a previously submitted psychological is adequate only if it has been administered within three years prior to the current application date. If not, acquire a new psychological evaluation. In the MRSIS system, a previously submitted and approved eligibility assessment may have a new date of psychological evaluation added, together with any changes it produces, through and update function.~~

~~2. A standardized measurement of adaptive behavior that has been administered within 90 days prior to the date of waiver application. The measure of adaptive behavior must verify by signature that it was administered and interpreted by a qualified professional and must include a score or conclusion by that professional that the individual's adaptive behavior is within the range defined for a person with mental retardation. The ICAP (Inventory for Client and Agency Planning) Compuscore report is required, but other assessments such as the Vineland or Adaptive Behavior Scale (ABS) may be used to supplement the information provided by the ICAP. The Regional Community Service Office may require submission of the ICAP~~

~~Compuscore, or the ICAP itself, or an additional instrument (the ABS) if there is doubt about the person's qualification for an ICF/MR level of care. If an ICAP was previously submitted to qualify the applicant for the waiting list, its information will be acceptable if all information remains the same and the case manager verifies he or she reviewed it within 90 days prior to the application date, and if the Regional Community Services Office has no question about the person's qualification for an ICF/MR level of care.~~

3. ~~A copy of a physical examination performed and signed by a licensed physician or a medical summary or physical assessment performed by a registered nurse, where the examination or assessment was conducted within 365 days prior entry to the waiver and describes the medical status of the individual. This requirement applies regardless of the applicant's waiting list status.~~

4. ~~A social development summary completed within 90 days prior to waiver application describing the family and developmental history and other pertinent information regarding the individual. If this document was previously submitted to qualify the applicant for the waiting list, another copy does not need to be submitted unless required.~~

5. ~~Other professional evaluations may be necessary to support the individual's application for an ICF/MR level of care. Note that psychological, adaptive, social, physical and other evaluations submitted to the Regional Community Service Office should be COPIES rather than originals.~~

~~(5) Annual Eligibility Re-determinations — The agency/provider submits the following required reports or summary statements in addition to the completed eligibility packet:~~

~~(a) For an adult, the psychological assessment from which the eligibility criterion of mental retardation was established will be considered valid until the original assessment is challenged, a condition changes, and/or a new assessment is completed. Only submit a copy of the psychological assessment if it is new. On the Eligibility application, indicate the date of the assessment from which the IQ was taken.~~

~~(b) For redetermination of a child who is in services, the eligibility assessment must reflect the most recent~~

~~psychological evaluation results, and that evaluation must be no more than three years prior to the redetermination application date, with the following exception: If the most recent IQ test was performed more than three years prior to the redetermination date and the current school IEP team has determined and documented that the resulting IQ test score remains accurate, the date of the IEP meeting at which this determination was made will be acceptable in the eligibility assessment. The case manager submitting the redetermination must document through a note and copy of the IEP that the child's test scores were reviewed and continue to be an accurate reflection of the child's intellectual functioning.~~

~~(c) If requested, a copy of an ICAP administered within the previous 24 months (2 years), unless all information from an earlier ICAP remains the same. If information remains the same, include a notation that all information remains the same. If information has changed, a new ICAP must be administered. Likewise, if the Regional Community Service Office requires a new ICAP, it must be conducted and information from its Compuscore report submitted. The ICAP information may be submitted through the electronic system, and not hard copy, unless the Regional Office requires a copy of the original document.~~

~~(d) A statement summarizing any changes that may have occurred in the individual's health status since the previous Level of Care determination.~~

~~(e) A statement summarizing any social or financial changes that have occurred with the individual, family or caregivers since the previous Level of Care determination.~~

~~(6) Applications for supported employment under the waiver require the applicant to obtain a letter from the Alabama Department of Rehabilitation Services (ADRS) certifying that the person is either not eligible for employment services through that agency or that ADRS has provided services to the individual and since closed their case. Individuals who are eligible for service through ADRS are not eligible for employment related services through the HCB Waiver until they have exhausted their ADRS benefits.~~

~~(7) Eligibility for the HCB Waiver requires a determination that the individual would, but for receiving services under the waiver, require and actually receive services in an institution (federal regulation - 42 CFR~~

~~441.302(c)(1)). A determination of waiver eligibility must therefore be made by DMH/MR through the regional community service office on a case-by-case basis, assessing the true probability that each individual would actually enter an ICF/MR minus the services of the waiver.~~

~~(8) The designated case management agency for each county/area shall serve as the point of entry for waiver applications. The designated case management agency will collect the necessary documentation and file the application with the Regional Community Service Office. The Community Service Office will determine eligibility and process the waiver application so that the person will either be determined ineligible for the waiver; determined eligible for the waiver but placed on a waiting list; or determined eligible for the waiver and enrolled in the program, depending upon criticality of need and availability of resources.~~

~~(9) The LAH Waiver Program -- Other Requirements: The following requirements apply to the LAH Waiver Program, in addition to meeting the requirements for the MR Waiver Program.~~

~~(a) An essential component of the Living at Home Waiver is that it will serve people who already have a place to live and just need supports to maintain that living arrangement while engaging in community based activities and programs.~~

~~(b) The Living at Home Waiver has expenditure limits, not inclusive of crisis intervention costs, and people who reasonably are expected to need more funding than the current limit shall not be admitted to the Living at Home Waiver.~~

~~(c) Eligibility determination shall require the same information as is required for the MR Waiver Program.~~

~~**Author:** Division of Mental Retardation, DMH/MR~~

~~**Statutory Authority:** Code of Alabama 1975, §22-50-11.~~

~~**History: New Rule:** Filed February 4, 2005; effective March 11, 2005. **Amended:** Filed March 27, 2007; effective May 1, 2007. **Amended:** Filed May 14, 2009; effective June 18, 2009. **Repealed:** October 19, 2011.~~

580-5-31-.15 Free Choice of Provider within the Medicaid Waiver Program. The Division of Mental Retardation shall assure that each individual and their family/guardian are

~~given a free choice of individuals or entities from which to receive services. Free choice of provider is an essential right of individuals and their families as required by federal Medicaid regulations and is upheld by the case management agency.~~

~~(1) The designated case management agency serving each county is the point of intake for people requesting services. This designated agency shall ensure that individuals and their family are provided with adequate information of all providers of services from which to base their choice(s), and that their choice is unhindered by coercion or manipulation arising from conflict of interest.~~

~~(2) A Free Choice of Provider form, signed by the consumer and/or his family after being provided with information about all potential providers of services/supports, is required to be completed for each initial application submitted by the agency/provider.~~

~~(3) Regional community service offices shall monitor the free choice of provider provisions, shall accept appeals, and shall investigate complaints regarding free choice.~~

~~(4) Changing providers requires a meeting of the person's team. If the person and the team do not agree, the person or the person's family/guardian may appeal in writing to the Regional Community Services Office for a change of service providers.~~

~~(5) If an individual/consumer opts to change service providers, an orderly transition of the contractual arrangements must be made. State funding shall follow the individual to his/her new service provider unless there is evidence that individuals and/or families have been or are being solicited or pressured to change providers. In this instance, the Department reserves the right to not transfer the funds to the receiving provider.~~

Author: Division of Mental Retardation, DMH/MR

Statutory Authority: Code of Alabama 1975, §22-50-11.

History: New Rule: Filed February 4, 2005; effective March 11, 2005. **Amended:** Filed March 27, 2007; effective May 1, 2007. **Repealed:** October 19, 2011.